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Forest
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File Code: 1570

Objection No.: 14-05-00-0030-O219

Date: October 3, 2014

Mr. Rob Hutsel
Executive Director
San Diego River Park Foundation
4891 Pacific Hwy, Suite 114
San Diego, CA 92110

CERTIFIED – RETURN
RECEIPT REQUESTED

Dear Mr. Hutsel:

The Legal Notice of the objection period for the Cleveland National Forest plan amendment Final Supplemental Environmental Impact Statement (FSEIS) was published on January 17, 2014. On March 15, 2014, I received your objection on the proposed amendment on behalf of the San Diego River Park Foundation. You were eligible to file an objection and your objection letter was filed during the objection-filing period.

This letter is my written response to your objections. As required by 36 CFR 219.56(g), “The Reviewing Officer must issue a written response to objector(s) concerning their objection(s) within 90 days following the end of the objection-filing period. However, the Reviewing Officer has the discretion to extend the time when he or she determines that additional time is necessary to provide adequate response to objections or to participate in resolution discussions with the objector(s).” Pursuant to 36 CFR 219.56(g) I chose to extend the response time by 60 days to accommodate objection resolution meetings with the objectors and interested persons and to provide adequate time to consider the concerns presented at the resolution meeting. In addition, due to the recent West Napa Earthquake resulting in the Regional Office being closed for five business days, all response times have been extended by an additional five business days.

Plan Amendment Summary

Land Management Plans (LMPs or forest plans) are required by the National Forest Management Act (NFMA) of 1976. They are an integrated document that describes the goals, objectives, and management direction for each component of the National Forest System. The four southern California national forests adopted revised Land Management Plans in April 2006.

The decision to adopt the forest plans was challenged in federal court by two parties in separate cases: one filed by the State of California (*California Resources Agency, et al vs. United States Department of Agriculture*), and the second by several environmental organizations (*Center for Biological Diversity, et al vs. United States Department of Agriculture*). The cases were consolidated, and on September 29, 2009, District Court Judge Marilyn Hall Patel entered judgment, granting in part and denying in part the parties’ motions for summary judgment. The



Court held that the Forest Service's Final Environmental Impact Statement (FEIS) for the revised forest plans violated the National Environmental Policy Act (NEPA) and the NFMA. On December 15, 2010, the parties finalized a settlement agreement determining the forms of relief. The settlement requires, in part, that:

The Forest Service will prepare a Supplemental Environmental Impact Statement ("SEIS") that re-examines forest plan management direction with regard to Inventoried Roadless Areas ("IRAs") within the Angeles, Cleveland, Los Padres and San Bernardino National Forest (collectively, "four forests") and analyzes alternative monitoring protocols. The SEIS will include a description of the Forest Service's efforts to coordinate with the State Plaintiffs regarding the State's policies for management of roadless areas. At the request of the Environmental Plaintiffs and the People of the State of California, the Forest Service will consider, at a minimum, the areas listed in Attachment A, or portions thereof, for potential rezoning to the Recommended Wilderness ("RW") or Back Country Non-Motorized ("BCNM") land use zones and the SEIS will include as a component of the proposed action, a proposal to rezone these areas, or portions thereof, to the RW or BCNM land use zones. Additional alternatives will also be considered as part of the NEPA process. The Forest Service will use best efforts to complete the SEIS and issue a Record of Decision within twenty-four months of the effective date of the Settlement Agreement.

The FSEIS for the southern California national forests' LMP amendment was prepared in response to the settlement agreement requirements. The proposed amendments to the 2006 LMPs are limited in scope and designed to address only the terms of the settlement agreement.

The Responsible Official selected the land use zone amendment described in Alternative 2a, and the monitoring strategy amendment described in Alternative B. Alternative 2a is a modification of the preferred alternative published in the Draft SEIS, and both Alternatives 2a and Alternative B are described in more detail in Chapter 2 of the FSEIS. Alternative 2a will amend the Cleveland National Forest LMP to change the zoning for approximately 43,000 acres in and adjacent to the Barker Valley, Caliente, Eagle Peak, No Name, and Sill Hill Inventoried Roadless Areas (IRAs) and the Cedar Creek and Upper San Diego River undeveloped areas from their existing land use zones, which are primarily Back Country Non-Motorized (BCNM), to Recommended Wilderness (RW).

Alternative 2a also includes minor additions of BCNM zoning to the other IRAs evaluated in the FSEIS, including the Ladd, Coldwater, and Trabuco IRAs. Alternative B amends the existing monitoring protocols by updating the monitoring questions and revising the process used to select projects for monitoring.

Changing the land use zones to RW under Alternative 2a would also change the Recreation Opportunity Spectrum (ROS) and Scenic Integrity Objectives (SIO). As described in Chapter 4 of the Final SEIS, in Tables 89 and 96, the ROS will change to Primitive, and the SIO will change to Very High for areas zoned as RW.

This plan level decision does not authorize any specific project activities such as vegetation management or road decommissioning, does not amend any permits or contracts or authorize any activity allowed by permit or contract, and does not modify any prohibitions, known as “Forest Orders” issued under 36 CFR § 261 Subpart B. The decision is also consistent with the requirements of 36 CFR § 294 Subpart B, Protection of Inventoried Roadless Areas, also referred to as the Roadless Area Conservation Rule (RACR).

Objection Summary

In their objections, objectors asked to change the amendment in the following ways:

- 1) Reconsider the California Chaparral Institute’s recommendation to develop a baseline for the remaining old-growth stands of chaparral that includes historical analysis (California Chaparral Institute (CCI)).
- 2) Use best available science, including the work of Dr. Jack Cohen, to design fuels treatments near communities, in order to promote health of the chaparral community and provide cost-effective structure protection (CCI).
- 3) Exclude the TL 626 and C79 power lines from recommended wilderness designation (San Diego Gas & Electric).
- 4) Maintain mountain bike access for all planned long-distance trails (Evan Sollberger).
- 5) Remove areas adjacent to Eagle Peak Preserve from proposed Recommended Wilderness (County of San Diego Department of Parks and Recreation, also San Diego Mountain Bike Association, San Diego River Foundation).
- 6) Designate lands as Backcountry Non-motorized where trails and alignments are located to ensure that mountain bikers are able to utilize trails along with hikers and equestrians. The Backcountry Non-motorized designation would also provide flexibility in siting regional multi-use trails for which general alignments are currently identified (e.g., Trans County Trail) (County of San Diego Department of Parks and Recreation, also San Diego Mountain Bike Association, San Diego River Foundation).

Resolution Meeting

On July 1, 2014, I sent you an email and a letter in an effort to convene a meeting to discuss your concerns about the Cleveland National Forest plan amendment. A resolution meeting was held on July 9, 2014. At the meeting we discussed concerns including those regarding: the effect of RW designation on existing and future special use permits, in particular in regard to San Diego Gas & Electric’s permits, the Master Special Use Permit process, and the possible need for a project-specific plan amendment; suggested RW designation for areas adjacent to the Eagle Peak Preserve and Eagle Peak Road; the effects of RW designation on the California Riding and Hiking Trail, the Pacific Coast Trail, and the Trans County Trail; and funding for monitoring. I appreciate the participation of the objectors and interested persons in the objection process in general, and in particular those that participated in the objection resolution meeting. I found our discussion to be helpful for understanding your concerns.

Objection Responses

Monitoring

Objection Issue Summary:

In general, the Objector sees the monitoring alternative chosen in the Cleveland National Forest's (CNF) decision as inadequate. The objector also states "the USFS's rejection of our suggestion to develop a baseline for the remaining old-growth stands of chaparral because it involved changing goals... is not particularly compelling" (CCI).

Summary of Record Review Findings:

The CNF appropriately applied the 1982 Planning rule requirements to "obtain and keep current inventory data appropriate for planning and managing the resources." Baseline/inventory chaparral data exists for the CNF and it can be found in the 2006 SoCal LMP analysis. The CNF has a clear, well-articulated strategy for the development of monitoring questions related to chaparral based on National Strategic Plan desired conditions and goals and objectives that will serve to inform an adaptive management process related to forest planning. No planning requirement exists for the development of a chaparral historical analysis.

Final Instructions to Responsible Official:

There are no instructions in response to these issues.

NEPA

Objection Issue Summary:

The objector is concerned about the use of best available science in determining how the Forest Service manages chaparral near communities (CCI).

Summary of Record Review Findings:

As stated in the Response to Comments, the issue related to use of best available science in project design is beyond the purpose of this amendment, which is to amend LMP land use zone allocations for select IRAs and to amend LMP monitoring and evaluation protocols in response to the terms of the Settlement Agreement.

The Forest's response to the objector's comment that the use of research to design fuels management treatments is best considered at the project level is correct. It would be appropriate to consider the research suggested by the objector in designing site-specific projects - it is important to consider recent and emerging science on chaparral ecology and structure protection when choosing the best management strategies for these plant communities and the adjacent urban areas. The Forest Service has not rejected the objector's suggestion to use best available science, but rather has stated that the science suggested by the objector is more appropriately applied at the project level than at the Land Management Plan level.

Final Instructions to Responsible Official:

There are no instructions in response to these issues.

Power lines

Objection Issue Summary:

San Diego Gas & Electric (SDG&E) asserts that adopting the CNF Draft ROD without excluding the existing TL 626 and C79 power lines from recommended wilderness designation would be arbitrary and capricious and violate the NFMA, NEPA and the Administrative Procedure Act. SDG&E's pending Master Special Use Permit application proposes reauthorization and fire hardening of TL 626 in place as well as relocation and decommissioning of C79. The objector further claims that the proposed RW designations would prohibit ongoing operations and maintenance activities on the subject power lines and would improperly prejudice the outcome of a decision on their Master Special Use Permit application.

Summary of Record Review Findings:

The objector's points are primarily based upon the status of their existing electric transmission (TL 626) and distribution (C79) infrastructure within the proposed Recommended Wilderness (RW) designation as described in the CNF Draft ROD. The Special Use Permits authorizing TL 626 and C79 have exceeded their stated expiration dates of February 1, 2014 and November 8, 1992 respectively. The permits did not grant the objector perpetual use and occupancy of National Forest System (NFS) lands. Special Use Permits are a license to use public lands, and no land use rights were conveyed to SDG&E via the permits. Currently, the permits remain in effect on an ongoing and short-term basis pending a Forest Service decision upon SDG&E's Master Special Use Permit Application and a range of alternatives to SDG&E's proposed action. If the decision for the Master Special Use Permit project, after considering a range of alternatives, retains the current alignment of the power lines given the RW designation, then a project specific Land Management Plan amendment would be required. The need for such an amendment would be evaluated in the NEPA document for the Master Special Use Permit.

The CNF LMP (CNF LMP, Part 2, pg. 3) states that suitable uses for each land use zone designation, such as RW, are intended as guidance for future activities and do not affect existing authorized occupancy and uses. The FSEIS (FSEIS, pg.16) states that projects currently under contract, permit, or other authorizing instrument will not be affected by the decision to alter land use zone designations.

The Draft ROD (Draft ROD, Cleveland NF, pp. 1, 5) repeatedly states that the decision will not amend any existing permits; the scope of currently authorized activities remains defined by the terms and conditions of the current permits, not by the plan amendment. Designation of the RW land use zone across the alignment of SDG&E's TL 626 and C79 power lines would not preclude ongoing operations and maintenance of the power lines as currently authorized nor would it preclude decommissioning of the C79 power line by mechanized or motorized equipment consistent with the terms and conditions of the Special Use Permit and as approved by the authorized officer.

Appendix A of the Draft ROD and Appendix 2 of the FSEIS describe the existing conditions within the proposed RW; however, the decision rationale in the Draft ROD lacks sufficient detail to support a RW designation in the aspect of non-conforming uses and characteristics. Non-

conforming characteristics of the Cedar Creek undeveloped area as listed in Appendix 2 include: power lines, access roads, invasive species, low flying aircraft, OHV use, etc.

Final Instructions to Responsible Official:

Provide clarification in the final ROD for the CNF (pg. 5). The subject language currently reads, “my decision could affect the future of the expired San Diego Gas & Electric (SDG&E) power line permits in the Sill Hill IRA and the Cedar Creek undeveloped area.” The language could be modified slightly to better clarify that the amendment could affect future decisions concerning the issuance of San Diego Gas & Electric (SDG&E) power line permits in the Sill Hill IRA and the Cedar Creek undeveloped area. The status of the existing lines would not change, but a decision for continuation or expansion of the use would not be suitable within the RW allocation.

In the final ROD more thoroughly address the non-conforming wilderness characteristics, such as power lines, present in the Cedar Creek undeveloped area and Sill Hill IRA along with the rationale for why they do not preclude a decision for RW designation of the areas.

Trails

Objection Issue Summary:

In general, the Objectors disagree with draft decision to designate new RW areas without BCNM corridors that would allow for planned/future long distance trail development especially in the Deadman Flat and Kessler Flat areas. The objectors indicate the desire for more mountain bike opportunities and flexibility in alignments (County of San Diego Department of Parks and Recreation, also San Diego Mountain Bike Association, San Diego River Foundation, Evan Sollberger).

Summary of Record Review Findings:

The forest considered objectors comments and addressed the comments in the project record. The FSEIS analyzed issues raised by the objectors. Some potential alignments are retained with BCNM corridors through RW for the Trans County Trail and San Diego River Trail. The FSEIS analyzed alternatives supporting BCNM designation requested by objectors. The selected alternative incorporated BCNM areas for routes that are suitable and have existing mountain bike use. The CNF Draft ROD for the FSEIS LMP amendment specifically addressed planned trails: “There are several conceptual trails, including the San Diego River Trail and the Trans County Trail, where some of the potential alignments cross through areas of the Cleveland National Forest that will now be zoned as RW. The RW zoning will restrict mountain bike use if the trails were to be designated in those areas. For the Eagle Peak complex of IRAs, I have decided that a contiguous area of RW zoning is necessary to preserve its integrity beyond the corridors of existing roads. Since I support these trails in concept, I ensured that suitable corridors remain available for their placement outside of RW zoning” (CNF Draft ROD, pg. 4). The plan amendment considered planned trails and connectivity through RW by establishing a 200’ wide corridor that would allow for undeveloped and unplanned sections of the Sea to Sea trail and the San Diego River Trail to be connected along existing roads through the wilderness (FSEIS, pp. 254, 256-257; CNF Draft ROD, pg. 4).

As discussed above, the FSEIS and Draft Cleveland ROD adequately analyzed and addressed the issues raised relating to the Sea to Sea, San Diego River Trails and the California Hiking and Riding Trail. Very little planning to determine optimal trail alignment of the Trans County Trail/Sea to Sea Trail has been completed in these areas. These trails were described (FSEIS, pg. 8), included within Alternative 2/2a (FSEIS, pg.109), and evaluated (FSEIS, pp. 254, 256-257). The 200' wide road corridors that accommodate mountain biking routes (on roads) through RW are shown in FSEIS Appendix 1G, Map of Cleveland South (FSEIS Appendix 1G, pg. 3).

The objectors made comments regarding other existing mountain bike trails in the area to the SE of the Eagle Peak Preserve and including Deadman's Flat and Kessler Flat. The objectors stated the trails are existing, shown on "Forest Service Maps" and provide for excellent mountain bike opportunities (San Diego River Park Letter_9003, pg. 2-3). Forest staff indicated through email response that the trails are a series of old ranch roads that are not National Forest System trails, are not optimal for mountain bike use, and receive very low mountain bike use.

The FSEIS states on page 256, "There would be no effect on the proposed San Diego Trans-County Trail." This appears to be an editing error, as the statement is incorrect with respect to the effects of Alternative 2a on the existing road system.

Final Instructions to Responsible Official:

There are no instructions in response to these issues.

Instructions to Responsible Official

- 1) Review the rationale in the ROD for designating or not designating IRAs as RW, particularly the Cedar Creek undeveloped area, and provide clarification where needed that supports and clearly connects to the information provided in the IRA evaluation in Appendix 2 of the FSEIS, including how those factors influenced the final decision. Address the non-conforming wilderness characteristics, such as power lines, present in the Cedar Creek undeveloped area and Sill Hill IRA along with the rationale for why they do not preclude a decision for RW designation.
- 2) Clarify language in the final ROD (pg. 5). The subject language currently reads, "my decision could affect the future of the expired San Diego Gas & Electric (SDG&E) power line permits in the Sill Hill IRA and the Cedar Creek undeveloped area." The language could be modified slightly to better clarify that the amendment could affect future decisions concerning the issuance of San Diego Gas & Electric (SDG&E) power line permits in the Sill Hill IRA and the Cedar Creek undeveloped area. The status of the existing lines would not change, but a decision for continuation or expansion of the use would not be suitable within the RW allocation.
- 3) On page 256, paragraph 3, of the FSEIS in the description of Alternative 2a in the Roads and Trails section, remove the statement, "There would be no effect on the proposed San Diego Trans-County Trail..."

Conclusion

As described above, I made a reasonable and appropriate effort to resolve the concerns that were brought forward while maintaining a balanced approach to managing the lands and meeting the purpose of the amendment process.

By copy of this letter, I am instructing Forest Supervisor William Metz to proceed with issuance of a Record of Decision for this amendment once all instructions identified in this objection response have been addressed. There will be no further review of this response by any other Forest Service or U.S. Department of Agriculture official as per 36 CFR 219.57 (b)(3).

Sincerely,

/s/ Ronald G. Ketter

RONALD G. KETTER

Deputy Regional Forester

Reviewing Officer

cc: Cindy Buxton, Sierra Club, San Diego, Interested Person
Kay Stewart, CA Native Plant Society, SD, Interested Person
Mollie Bigger, Sierra Club, SD, Interested Person
Richard Halsey, CA Chaparral Institute, Interested Person
Allen Greenwood, San Diego Trout, Interested Person
Ellen Shively, Sierra Club, San Diego, Interested Person
Will Metz, Forest Supervisor, Cleveland NF